

FOUR-PARTY AGREEMENT

among

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
d/b/a EMPIRE STATE DEVELOPMENT,

ERIE COUNTY STADIUM CORPORATION,

THE COUNTY OF ERIE,

and

BUFFALO BILLS, INC.

Dated as of _____, 2013

THIS FOUR PARTY AGREEMENT (together with all renewals, replacements, modifications and amendments hereof, **“Agreement”**), is made as of the ____ day of _____, 2013, by and among the **NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE STATE DEVELOPMENT (“ESD”)**, a public benefit corporation and corporate governmental agency of the State of New York, having an office and principal place of business at 633 Third Avenue, New York, New York 10017-6754, **ERIE COUNTY STADIUM CORPORATION**, a New York business corporation and wholly owned subsidiary of ESD, having an office and principal place of business c/o ESD at 633 Third Avenue, New York, New York 10017-6754 (together with any assignee of any of the rights of the Erie County Stadium Corporation under any Stadium Agreement, the **“ECSC”**), **THE COUNTY OF ERIE**, a New York municipal corporation having an office and principal place of business at Rath County Office Building, 95 Franklin Street, Buffalo, New York 14202 (the **“County”**) and **BUFFALO BILLS, INC.**, a New York business corporation having an office and principal place of business at One Bills Drive, Orchard Park, New York 14127 (the **“Bills”**).

RECITALS:

WHEREAS, in a Memorandum of Understanding (**“MOU”**), dated as of December 21, 2012, among ESD, the County and the Bills, the parties agreed, in principle, to (i) the development and financing of the refurbishment, renovation and improvement of the professional football stadium and related facilities located in Orchard Park, New York (the **“Stadium Complex”**) and (ii) the general terms and conditions allowing for the Bills continued occupancy of the Stadium through July 30, 2023; and

WHEREAS, in furtherance of the transactions contemplated by the MOU, the County, as lessor, and ECSC, as lessee, have on this date entered into a 2013 Master Lease for the use and occupancy of the Stadium Complex (together with all renewals, replacements, modifications and amendments thereof, the **“2013 Master Lease”**); and

WHEREAS, ECSC, as sub-lessor, and the Bills, as sub-lessee, have on this date entered into a 2013 Stadium Lease setting forth the terms of the Bills’ continued occupancy of the Stadium Complex (together with all renewals, replacements, modifications and amendments thereof, the **“2013 Stadium Lease”**); and

WHEREAS, the County, ECSC and the Bills have on this date entered into a 2013 Construction Coordinating Agreement, setting forth the responsibilities and obligations of the parties with respect to the improvements to be made to the Stadium Complex (together with all renewals, replacements, modifications and amendments thereof, the **“2013 Construction Coordinating Agreement”**); and

WHEREAS, ESD, as parent corporation of ECSC, has agreed to perform certain obligations of ECSC in the event ECSC is unable to perform such obligations,

NOW, THEREFORE, ESD, ECSC, the County and the Bills agree to the following:

1. ESD hereby approves and consents to the execution of the 2013 Master Lease, 2013 Stadium Lease, and 2013 Construction Coordinating Agreement (collectively, the **“Stadium Agreements”**), copies of which have been provided to ESD.

2. Upon the occurrence of any ECSC Default (hereinafter defined) and notice thereof from the Bills or the County to ESD and ECSC, then, and in such event, the parties hereto agree that ESD shall be obligated to perform the obligations of ECSC under the Stadium Agreements and shall be entitled to all of the benefits inuring to ECSC under the Stadium Agreements. In such event, without limiting the foregoing, (i) the 2013 Master Lease shall continue as a direct lease between the County, as lessor, and ESD, as lessee, as if ESD had originally entered into the 2013 Master Lease as lessee thereunder and ESD shall attorn to the County and the County shall accept such attornment; (ii) the 2013 Stadium Lease shall continue as a direct sub-lease between ESD, as sub-lessor, and the Bills, as sub-lessee, as if ESD had originally entered into the 2013 Stadium Lease and the Bills shall attorn to ESD and ESD shall accept such attornment; and (iii) the 2013 Construction Coordinating Agreement shall continue as a direct agreement among ESD, the County and the Bills, as if ESD had originally entered into the 2013 Construction Coordinating Agreement.

3. An ECSC Default shall mean any of the following events:

(i) ECSC files a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or admits the material allegations of any such petition by answer or otherwise, or is dissolved or makes an assignment for the benefit of creditors;

(ii) Involuntary proceedings under any such bankruptcy law or insolvency act for the dissolution of ECSC are instituted against ECSC, or a receiver or trustee is appointed for all or any material portion of the property of ECSC, and such proceeding is not dismissed or such receivership or trusteeship vacated within (sixty) 60 days after such institution or appointment;

(iii) The 2013 Master Lease or 2013 Stadium Lease is taken from ECSC upon execution or by other process of law directed against ECSC, or either is taken upon or subject to any attachment by any creditor of ECSC or claimant against ECSC and said attachment is not discharged or disposed of within sixty (60) days after its levy;

(iv) ECSC is in default of any of its obligations set forth in the Stadium Agreements and, after notice and an opportunity to cure, if and to the extent provided in such agreement, the default is not cured.

4. The foregoing provisions shall be self-operative, however, ESD, ECSC, the County and the Bills each agree to execute any appropriate and necessary document to ratify and confirm the same.

By way of example, but not limitation, if the 2013 Master Lease terminates due to the rejection of the 2013 Master Lease in a bankruptcy proceeding involving ECSC, then the County, as lessor, and ESD, as lessee, agree to immediately enter into a new 2013 Master Lease for the remainder of the 2013 Master Lease Term, as defined in the 2013 Master Lease, effective as of the date of such termination upon the terms, conditions, covenants and agreements as contained in the 2013 Master Lease. Similarly, if the 2013 Stadium Lease terminates due to the rejection of the 2013 Stadium Lease in a bankruptcy proceeding involving ECSC, then ESD, as sub-lessor, and the Bills, as sub-lessee, agree to immediately enter into a new 2013 Stadium

Lease for the remainder of the 2013 Stadium Lease Term, effective as of the date of such termination, upon the terms, conditions, covenants and agreements as contained in the 2013 Stadium Lease.

5. Each party hereto represents and warrants to the other parties that (i) it has the full power and authority to enter into this Agreement; (ii) that this Agreement constitutes the legal, valid and binding obligation of such party in accordance with the terms hereof; and (iii) execution of this Agreement has been duly authorized by all necessary board, shareholder or legislative action, as the case may be.

6. Notwithstanding anything to the contrary contained elsewhere in this Agreement, the liability of ESD, to perform and make good the obligations contained herein, shall be limited, as set forth in Section 29.23 of the 2013 Stadium Lease, Section 21.22 of the 2013 Master Lease and Section 12.21 of the Construction Coordinating Agreement.

7. Any notice to be given under this Agreement shall be in writing and shall be given by hand delivery or by certified mail, return receipt requested, addressed to the other parties at the addresses set forth above. Notices shall be effective: (a) if given by certified mail, 72 hours after deposit in the mails with first class postage prepaid, addressed as aforesaid; and (b) if given by hand delivery, upon receipt by the addressee.

8. This Agreement may be changed or modified only by a written instrument executed by all of the parties hereto.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that, without the prior written consent of the County and the ECSC, the Bills will not assign or otherwise convey this Agreement to any Person other than a Permitted Assignee, as defined in the 2013 Stadium Lease, which assumes in writing, by documentation reasonably acceptable to the County and the ECSC, all of the obligations of the Bills under this Agreement.

10. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings given such terms in the 2013 Stadium Lease.

11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without giving effect to conflict of laws provisions except for Sections 5-1401 and 5-1402 of the New York General Obligations Law. Each party hereto hereby agrees that all actions or proceedings arising directly or indirectly out of this Agreement shall be litigated only in the Supreme Court of the State of New York, Erie County, or the United States District Court for the Western District of New York. Each such party expressly submits and consents in advance to such jurisdiction and waives any claim that Erie County, New York or the Western District of New York is an inconvenient forum or an improper forum based on improper venue. Each such party agrees to service of process in any form or manner permitted by law, addressed to it as set forth in Section 7. Each party hereto agrees not to institute suit arising out of this Agreement against any other party hereto in a court in any jurisdiction, except as stated above, without the consent of such other party. Each party hereto agrees that a true, correct and

complete copy of this Agreement kept in the County's, the ECSC's, the ESD's or the Bills' course of business may be admitted into evidence as an original.

12. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**NEW YORK STATE URBAN DEVELOPMENT
CORPORATION d/b/a Empire State Development**

By: _____
Name: _____
Title: _____

ERIE COUNTY STADIUM CORPORATION

By: _____
Name: _____
Title: _____

BUFFALO BILLS, INC.

By: _____
Name: _____
Title: _____

COUNTY OF ERIE

By: _____
Mark C. Poloncarz, County Executive

APPROVED AS TO FORM:

By: _____
County Attorney

APPROVED AS TO CONTENT:

By: _____
Deputy County Executive